

Application No. 09/745,525
Group Art Unit: 2642

Remarks:

Claims 1-46 are pending in this application.

The Examiner has rejected independent claims 1, 32, 33 and 40 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,669,113 to Ash et al. (hereinafter "Ash"). The applicant respectfully disagrees.

In order to establish that any claim is obvious, the Examiner must identify 1) all of the claimed elements in the prior art; 2) a reason or motivation to modify or combine these elements to arrive at the claimed invention; and 3) a reasonably likelihood of success. (See M.P.E.P. 2142)

The Examiner acknowledges that "Ash et al. does not teach initializing a first degree of adaptation if the utilization of the trunk exceeds a first threshold". As such, it is submitted that the Examiner has failed to identify a disclosure of all of the claimed elements in Ash.

Without such a disclosure, Ash cannot render independent claims 1, 32, 33 and 40 obvious. Withdrawal of the rejection of claims 1, 32, 33 and 40, and claims 2-31, 34-39 and 41-46 dependent thereon, in view of Ash is therefore respectfully requested.

Applicant respectfully requests that a timely Notice of Allowance be issued in the case.

Respectfully submitted,

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October 9, 2003
91436-286
CCC/RDF/pan

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